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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 3175 OF 2007

Mangesh A. Salunkhe .. Applicant

V/s

State of Maharashtra .. Respondent

Mr.Rahul Thakur for the applicant.

Mr.Rajesh More, A.P.P. for the State.

CORAM : D.G. KARNIK, J.

DATE : 27TH NOVEMBER 2007

P.C. :

1. Heard learned counsel for the applicant and the learned A.P.P. for the State.

2. This application is under section 439 of Cr.P.C. to release the applicant on bail. The applicant has been arrested in connection with the crime bearing C.R.No.005/2007 registered with the Nagothane Police Station punishable under section 302, 506(II) and 498 of I.P.C.

3. The prosecution case is that on 16th January 2007 at 8.00 p.m., the applicant poured kerosene on the body of the deceased who was his wife and set her on fire. A dying declaration of the deceased was recorded on 16th January 2007 after confirming from the medical officer that the patient was fit and conscious to give the statement. In the said statement, the deceased stated that on account of quarrel with her husband (the applicant), who had come after consuming liquor, she poured kerosene on herself and set herself on fire. A statement was again recorded on 17th January 2007 in which the deceased repeated that she set herself on fire. Thereafter another dying declaration was recorded in the presence of Special Executive Magistrate on 17th January 2007 in which also the deceased had stated that she set herself on fire. It is only on 18th January 2007 that she gave a statement that her husband set her on fire. Thus, there are discrepancies in the statement / dying declaration recorded of the deceased. In the first three statements the deceased has exonerated her husband and stated that she set herself on fire on account of quarrel with her husband. It is only on 18th January 2007 that she for the first time stated that she was set on fire by her husband.

4. It is true that the son of the deceased, who is about 5 years of age, has given a statement that the

deceased was set on fire by the applicant. However, that statement was recorded after 15 days of the incident.

5. Taking an overall view of the matter and also taking into consideration the fact that in the first three statements / dying declarations, the deceased has not implicated her husband, and also taking into consideration the fact that the applicant is in jail for a period of more than 10 months and the trial is not likely to commence soon, it would be appropriate to grant bail to the applicant. Hence, I pass the following order:-

ORDER

On the applicant executing a personal bond of Rs.20,000/- with one surety in the like amount, the applicant shall be released on bail on the following conditions:

(a) The applicant shall not pressurise the prosecution witnesses and particularly shall not pressurise the son whose statement has been recorded.

(b) The applicant shall not leave District Raigad without prior permission of the Sessions Court.

(D.G. KARNIK, J.)